

ORIGINAL

NEW APPLICATION



0000098296

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

2009 MAY 20 P 1:27

ARIZONA CORPORATION COMMISSION  
DOCKETED

In the matter of:

GREEN PANEL CORPORATION, a  
Wyoming corporation,

JOSEPH SAMUEL BURTON, a married man,

BONNIE EILEEN BURTON, a married  
woman,

PANELIZED BUILDING SYSTEMS OF  
PRESCOTT, L.L.C. (a/k/a "PANELIZED  
BUILDING SYSTEMS"), a dissolved  
Wyoming limited liability company,

Respondents.

DOCKET NO. S-20676A-09-0248

**TEMPORARY ORDER TO CEASE AND  
DESIST AND NOTICE OF  
OPPORTUNITY FOR HEARING**

Arizona Corporation Commission

**DOCKETED**

MAY 20 2009

DOCKETED BY

NR

**NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY**

**EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING**

**EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents GREEN PANEL CORPORATION, JOSEPH SAMUEL BURTON and BONNIE EILEEN BURTON, husband and wife, and PANELIZED BUILDING SYSTEMS OF PRESCOTT, L.L.C. (a/k/a "PANELIZED BUILDING SYSTEMS") have engaged, are engaging or are about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act"), and that the public welfare requires immediate action.

I.

JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

II.

RESPONDENTS

2. Respondent GREEN PANEL CORPORATION ("GPC") is a Wyoming corporation that has conducted business within or from Prescott, Arizona from on or about January 12, 2007, to the present.

3. At all times relevant, respondent JOSEPH SAMUEL BURTON ("JB") has resided in Prescott, Arizona, and has been married to respondent BONNIE EILEEN BURTON ("BB"). From on or about April 7, 2001, to the present, JB has conducted business in his individual capacity and through: (a) GPC as its co-owner, secretary, chief operating officer and/or board member; and (b) respondent PANELIZED BUILDING SYSTEMS OF PRESCOTT, L.L.C. (a/k/a "PANELIZED BUILDING SYSTEMS") ("PBS") as its co-owner and/or member.

4. At all times relevant, BB has resided in Prescott, Arizona. From on or about April 7, 2001, to the present, BB has conducted business in her individual capacity and through: (a) GPC as its co-owner, president, chief executive officer and/or chairman of the board; and (b) PBS as its co-owner and managing member.

5. From on or about October 11, 2006, to at least December 9, 2007, PBS was a Wyoming limited liability company that conducted business within or from Prescott, Arizona.

6. At all times relevant, BB and JB have acted for their own benefit and for the benefit or in furtherance of their marital community. BB and JB may be referred to hereafter as the "BURTONS."

7. BB, JB, GPC and PBS may be referred to hereafter as "RESPONDENTS." At all relevant times, RESPONDENTS have not been registered as securities salesman or dealers.

1           8.       PBS and GPC may be referred to as the "BURTON COMPANIES."

2                               **III.**

3                               **FACTS**

4           9.       From on or about April 7, 2001, to the present, RESPONDENTS have sold, and are  
5 offering and selling unregistered securities within and from Arizona in the form of investment  
6 contracts, notes and limited liability company membership interests.

7           10.      To date, RESPONDENTS have offered and sold at least 33 unregistered securities  
8 totaling approximately \$1,425,854.66 to 24 investors residing in Arizona and 3 other states. Of  
9 this amount, approximately: (a) \$1,425,854.66 was sold by the BURTONS; (b) \$839,800 was  
10 issued by GPC; and (c) \$264,000 was issued by PBS.

11          11.      At all times relevant, RESPONDENTS have represented to offerees and investors  
12 that they are engaged in the business of manufacturing structural insulated wall and roof panels  
13 ("SIP") for use in residential, commercial and industrial construction.

14          12.      At all times relevant, RESPONDENTS have promised offerees and investors that  
15 they would pool investor money together to: (a) promote and expand the BURTON COMPANIES  
16 and their SIP manufacturing and sales capabilities; and (b) build and/or assist in the building of  
17 thousands of SIP-based homes and commercial structures costing tens of millions of dollars.

18          13.      To date, RESPONDENTS have sold approximately 25 unsecured, promissory note  
19 investments ranging in price from approximately \$5,000 to \$150,000.

20          14.      The terms and conditions of the notes vary, and promise interest ranging from 10  
21 percent to 348 percent per year, and the eventual return of the principal investment in as little as 90  
22 days to 7 months. One note offered and sold by the BURTONS and PBS states that if they are  
23 unable to pay the promised interest, the investor would alternatively receive a 25 percent limited  
24 liability company membership interest in PBS.

25          15.      Investment contracts offered and sold by RESPONDENTS promise investors: (a)  
26 interest on principal, similar to the notes; (b) a limited liability company membership interest in

1 PBS ranging from 5 percent to 40 percent; and/or (c) a percentage of net income produced by  
2 RESPONDENTS' business operations.

3 16. At all times relevant, RESPONDENTS have managed all aspects of the securities  
4 and, without limitation: (a) operated the BURTON COMPANIES and supervised their agents and  
5 employees; (b) designed, built and manufactured the tools, machinery and plant facilities necessary to  
6 construct SIPs; and (c) manufactured and marketed SIPs and their SIP-based construction projects.

7 17. At all times relevant, RESPONDENTS have deposited investor money into Arizona  
8 banks accounts owned and controlled by RESPONDENTS.

9 18. At all times relevant, RESPONDENTS have used a variety of media to offer the  
10 securities. For instance, in December 2007 the BURTONS arranged for a power point  
11 presentation to be presented to approximately 25 potential investors in Atlanta, Georgia during  
12 which they sought hundreds of thousands of dollars in note investment money for GPC. From at  
13 least June 2008 to the present, the BURTONS and GPC have also publicly solicited investors on  
14 the internet.

15 19. At all times relevant, RESPONDENTS represented to offerees and investors that:

16 A. RESPONDENTS have executed contracts to build thousands of SIP-based  
17 homes, commercial and/or industrial buildings totaling hundreds of millions  
18 of dollars in the United States and abroad with the governments of, for  
19 instance, South Africa and the Dominican Republic; and

20 B. that investors would receive their investment returns from proceeds  
21 resulting from their SIP-based construction activities.

22 20. At all times relevant, RESPONDENTS failed to inform offerees and investors that  
23 their ability to obtain their promised investment returns and the ability of RESPONDENTS'  
24 customers to pay RESPONDENTS for their SIP products and/or services could be negatively  
25 impacted by: (a) real estate market fluctuations and declines; and (b) expensive and time  
26 consuming civil litigation. RESPONDENTS further failed to disclose any risks associated with

1 the securities including, but not limited to, the fact that investors could lose all or a vast portion of  
2 their principal investments.

3 21. At all times relevant, RESPONDENTS have failed to disclose to offerees and  
4 investors that they have been defendants in approximately 19 Arizona and Ohio civil lawsuits  
5 concerning their SIP-based construction and business operations and the securities at issue (the  
6 "Lawsuits"). RESPONDENTS further failed to disclose to offerees and investors that the Lawsuits  
7 resulted in unsatisfied breach of contract and fraud judgments against the BURTONS and/or the  
8 BURTON COMPANIES totaling approximately \$1,600,000.

9 22. At all times relevant, RESPONDENTS failed to inform offerees and investors that  
10 RESPONDENTS were not, and are not licensed by the Arizona Registrar of Contractors ("ROC")  
11 to construct residential homes or commercial buildings.

12 23. In addition to their ongoing internet advertisement, the BURTONS and GPC  
13 recently offered an Arizona resident an unsecured investment contract costing approximately  
14 \$2,000,000.

15 24. To date, RESPONDENTS' investors have received no repayments on their  
16 investments. On March 27, 2009, RESPONDENTS provided documentation to the Division  
17 demonstrating that, to date, their SIP business operations have produced no profits, but rather only  
18 losses.

#### 19 IV.

#### 20 VIOLATION OF A.R.S. § 44-1841

#### 21 (Offer and Sale of Unregistered Securities)

22 25. From on or about January 12, 2007 to the present, GPC has been offering or selling  
23 securities in the form of investment contracts and notes, within or from Arizona. From on or about  
24 April 7, 2001 to the present, the BURTONS have been offering or selling securities in the form of  
25 investment contracts, notes and limited liability company membership interests, within or from  
26 Arizona. From on or about October 11, 2006 to at least December, 2007, PBS offered and sold

1 securities in the form of investment contracts, notes and limited liability company membership  
2 interests, within or from Arizona.

3 26. The securities referred to above are not registered pursuant to Articles 6 or 7 of the  
4 Securities Act.

5 27. This conduct violates A.R.S. § 44-1841.

6 **V.**

7 **VIOLATION OF A.R.S. § 44-1842**

8 **(Transactions by Unregistered Dealers or Salesmen)**

9 28. RESPONDENTS have offered and sold, and the BURTONS and GPC are offering or  
10 selling securities within or from Arizona while not registered as dealers or salesmen pursuant to  
11 Article 9 of the Securities Act.

12 29. This conduct violates A.R.S. § 44-1842.

13 **VI.**

14 **VIOLATION OF A.R.S. § 44-1991**

15 **(Fraud in Connection with the Offer or Sale of Securities)**

16 30. In connection with the offer or sale of securities within or from Arizona,  
17 RESPONDENTS have and/or are, directly or indirectly: (i) employing and/or have employed a  
18 device, scheme, or artifice to defraud; (ii) making and/or have made untrue statements of material fact  
19 or omitting to state material facts that are necessary in order to make the statements made not  
20 misleading in light of the circumstances under which they are made; or (iii) engaging and/or have  
21 engaged in transactions, practices, or courses of business that operate or would operate as a fraud or  
22 deceit upon offerees and investors. RESPONDENTS' conduct includes, but is not limited to, the  
23 following:

24 A. Representing to offerees and investors that they would earn significant returns by  
25 purchasing the securities, while failing at all times relevant to disclose that  
26 RESPONDENTS were defendants in approximately 19 Arizona and Ohio Lawsuits

1 regarding their SIP-based construction and business operations and the securities  
2 resulting in unsatisfied breach of contract and fraud judgments against  
3 RESPONDENTS totaling approximately \$1,600,000.

4 B. Representing to offerees and investors that they would receive their investment  
5 returns from proceeds resulting from their SIP-based construction operations, while  
6 failing at all times relevant to disclose: (1) any risks associated with the securities  
7 including, but not limited to, the fact that investors could lose all or a vast portion of  
8 their principal investments; and/or (2) that investors' ability to obtain their  
9 promised investment returns, and the ability of RESPONDENTS' customers to pay  
10 RESPONDENTS for their SIP products and/or services could be negatively  
11 impacted by unpredictable: (a) real estate market fluctuations and declines; and (b)  
12 expensive and time consuming civil litigation in both the United States and/or  
13 abroad.

14 C. Representing to offerees and investors that they would be repaid their investment  
15 returns from proceeds resulting from their SIP-based construction operations, while  
16 failing to disclose at all times relevant that: (1) they were not licensed as  
17 contractors by the ROC; (2) given the nature of their purported SIP-based  
18 construction projects, they were acting as "contractors" as defined by Arizona law,  
19 and were required to be licensed under A.R.S. § 32-1121; (3) it is unlawful to  
20 conduct business as a contractor without being licensed under A.R.S. § 32-1151;  
21 and (4) RESPONDENTS' failure to be licensed as contractors by the ROC  
22 negatively impacts and/or impacted their ability to be compensated for their SIP-  
23 based construction work and, therefore, their ability to repay investors as promised.

24 31. This conduct violates A.R.S. § 44-1991.  
25  
26

**VII.**

**TEMPORARY ORDER**

**Cease and Desist from Violating the Securities Act**

THEREFORE, based on the above allegations, and because the Commission has determined that the public welfare requires immediate action,

IT IS ORDERED, pursuant to A.R.S. § 44-1972(C) and A.A.C. R14-4-307, that the BURTONS and GPC, their agents, servants, employees, successors, assigns, and those persons in active concert or participation with the BURTONS and GPC CEASE AND DESIST from any violations of the Securities Act.

IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in effect for 180 days unless sooner vacated, modified, or made permanent by the Commission.

IT IS FURTHER ORDERED that this Order shall be effective immediately.

**VIII.**

**REQUESTED RELIEF**

The Division requests that the Commission grant the following relief:

1. Order RESPONDENTS to permanently cease and desist from violating the Securities Act pursuant to A.R.S. § 44-2032;
2. Order RESPONDENTS to take affirmative action to correct the conditions resulting from RESPONDENTS' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;
3. Order RESPONDENTS to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
4. Order that the marital community of JB and BB are subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and
5. Order any other relief that the Commission deems appropriate.



## IX.

## HEARING OPPORTUNITY

Each respondent may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. Rule 14-4-307. **If a respondent requests a hearing, the requesting respondent must also answer this Temporary Order and Notice.** A request for hearing must be in writing and received by the Commission within 20 days after service of this Temporary Order and Notice. The requesting respondent must deliver or mail the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at [www.azcc.gov/divisions/hearings/docket.asp](http://www.azcc.gov/divisions/hearings/docket.asp).

If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary Order shall remain effective from the date a hearing is requested until a decision is entered.** After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order, with written findings of fact and conclusions of law. A permanent Order may include ordering restitution, assessing administrative penalties, or other action.

If a request for hearing is not timely made, the Division will request that the Commission make permanent this Temporary Order, with written findings of fact and conclusions of law, which may include ordering restitution, assessing administrative penalties, or other relief.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shaylin A. Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail [sabernal@azcc.gov](mailto:sabernal@azcc.gov). Requests should be made as early as possible to allow time to arrange the accommodation.

X.

**ANSWER REQUIREMENT**

Pursuant to A.A.C. R14-4-305, if a respondent requests a hearing, the requesting respondent must deliver or mail an Answer to this Temporary Order and Notice to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days after the date of service of this Temporary Order and Notice. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at [www.azcc.gov/divisions/hearings/docket.asp](http://www.azcc.gov/divisions/hearings/docket.asp).

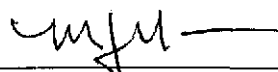
Additionally, the answering respondent must serve the Answer upon the Division. Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a copy of the Answer to the Division at 1300 West Washington, 3<sup>rd</sup> Floor, Phoenix, Arizona, 85007, addressed to Mike Dailey.

The Answer shall contain an admission or denial of each allegation in this Temporary Order and Notice and the original signature of the answering respondent or the respondent's attorney. A statement of a lack of sufficient knowledge or information shall be considered a denial of an allegation. An allegation not denied shall be considered admitted.

When the answering respondent intends in good faith to deny only a part or a qualification of an allegation, the respondent shall specify that part or qualification of the allegation and shall admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

The officer presiding over the hearing may grant relief from the requirement to file an Answer for good cause shown.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 20 day of May, 2009.

  
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Matthew J. Neubert  
Director of Securities